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APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION OF
EAST TEXAS ELECTRIC COOPERATIVE, INC. AND
NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.**

East Texas Electric Cooperative, Inc. (“ETEC”) and Northeast Texas Electric Cooperative, Inc. (“NTEC”) file their Reply to Exceptions to the Proposal for Decision (“PFD”).

IV. EXECUTIVE SUMMARY ¹

ETEC and NTEC continue to support the PFD’s findings and conclusions concerning the proper rate treatment of Dolet Hills.² Specifically, the PFD correctly concluded that:

Dolet Hills [should] be treated for ratemaking purposes as an operational, used and useful, power plant, including earning a return on the plant’s net book value, with respect to the period between March 18, 2021 (the rates’ effective date) and December 31, 2021 (the plant’s retirement), **but not thereafter**.

[. . .]

SWEPCO should (1) continue ordinary depreciation of Dolet Hills with respect to the period between March 18, 2021, and the December 31, 2021 plant retirement, and (2) with respect to the period thereafter, **place any remaining net book value into a regulatory asset, to be amortized [through 2046]**.³

This ratemaking treatment would be implemented by a rate-rider mechanism that offers the dual benefits of (1) segregating and separately addressing the unique cost-recovery issues associated with Dolet Hills, (2) while also aligning the costs of the plant during its operation with the rates paid by SWEPCO customers who are receiving service at that time.⁴ ETEC and NTEC recommend

¹ Section and subsection numbering will follow the section numbers used in the PFD, as requested by the Exceptions and Replies Memo (Sep. 20, 2021).

² See ETEC and NTEC’s letter regarding no exceptions to the PFD (Oct. 7, 2021).

³ Proposal for Decision at 53, 56 (Aug. 27, 2021) (“PFD”); see also PFD at 56 (“the ALJs recommend that the Commission retain the same depreciation rates it previously approved for Dolet Hills, predicated on a useful life ending in 2046, and use this same schedule for both pre-retirement depreciation and post-retirement amortization of the regulatory asset.”)

⁴ PFD at 57.

the Commission adopt these conclusions, which will help ensure SWEPCO's rates are just and reasonable in light of Dolet Hills' upcoming December 31, 2021 retirement.

V. RATE BASE / INVESTED CAPITAL

A. Transmission, Distribution, and Generation Capital Investment

2. Dolet Hills Power Station [PO Issues 67, 68, 69, 70, 71]

The PFD carefully considered all arguments, evidence, and laws to reach an equitable and well-supported conclusion—Dolet Hills' retirement should be addressed in a manner consistent with the Commission's precedent in Docket No. 46449.⁵ This conclusion follows the recommendations and evidence put forward by Commission Staff, ETEC and NTEC, as well as the other intervenors.⁶ Importantly, this conclusion also follows fundamental ratemaking principles.

Standard cost-of-service ratemaking principles permit the utility a reasonable opportunity to earn a reasonable return on the utility's invested capital that is used and useful in providing service to the public in addition to recovery of reasonable and necessary operating expenses. This "used and useful" principle generally matches the recovery of asset costs with the time period those assets provide service.⁷ Once utility plant assets are abandoned and no longer providing service, the costs are normally excluded from rate determinations.⁸ This default rule ensures that costs and benefits are roughly aligned for ratepayers.

⁵ PFD at 52 ("As observed in regard to the retired gas units, the ALJs conclude they should follow Docket No. 46449 unless and until the Commission or the Legislature instructs otherwise. And as weighed against the policies reflected in Docket No. 46449 and PURA's broader directive of just and reasonable rates, the ALJs conclude that the timing requirement of Section 25.231(c)(2)(F)(iii)(II) should yield under the circumstances of this case.")

⁶ See, e.g., Commission Staff's Initial Brief at 5-12 (Jun. 17, 2021); Office of Public Utility Counsel's Post-Hearing Initial Brief at 2-9 (Jun. 17, 2021); Cities Advocating Reasonable Deregulation's Initial Post-Hearing Brief at 2-10 (Jun. 17, 2021); Texas Industrial Energy Consumers' Initial Brief at 2-11 (Jun. 17, 2021); Initial Brief of Nucor Steel Longview, LLC at 1-3 (Jun. 17, 2021); Initial Brief of East Texas Electric Cooperative, Inc. and Northeast Texas Electric Cooperative, Inc. at 3-9 (Jun. 17, 2021); Southwestern Electric Power Company's Initial Brief at 4-12 (Jun. 17, 2021).

⁷ See, e.g., PURA 36.051 ("In establishing an electric utility's rates, the regulatory authority shall establish the utility's overall revenues at an amount that will permit the utility a reasonable opportunity to earn a reasonable return on the utility's invested capital used and useful in providing service to the public in excess of the utility's reasonable and necessary operating expenses."); ETEC/NTEC Ex. 1, Direct Testimony of Steven D. Hunt on Behalf of ETEC and NTEC at 8.

⁸ ETEC/NTEC Ex. 1, Direct Testimony of Steven D. Hunt on Behalf of ETEC and NTEC at 8-9.

As an exception to the general used and useful principle, the Commission may permit certain ratemaking treatment for unrecovered investments in retired assets in special circumstances, such as the prudent premature retirement of a generating plant.⁹ For example, in Docket No. 46449, the Commission allowed SWEPCO to recover a return of, but not on, its remaining investment in Welsh unit 2 over an extended period of time when the plant was retired prematurely.¹⁰ In this case, the PFD correctly concluded that the Commission should follow this precedent when addressing the ratemaking treatment for Dolet Hills.¹¹

In its exceptions to the PFD, SWEPCO reiterates arguments from post-hearing briefing, relying on an inconsistent application of general accounting and Commission rules to support its ratemaking proposal for Dolet Hills.¹² As the PFD identified, this reliance is misplaced and fails to recognize (1) bright-line rules like the post-test-year adjustment rule can bring the potential for arbitrary effect in a particular case, including impeding setting rates that are just and reasonable;¹³ (2) the amount of Dolet Hills' undepreciated net book value in this case calls for special consideration; and (3) SWEPCO's choice to file its rate case early should not excessively benefit

⁹ ETEC/NTEC Ex. 1, Direct Testimony of Steven D. Hunt on Behalf of ETEC and NTEC at 9-10; *see also* 16 TAC § 25.231(b)(1)(B) ("Other methods of depreciation may be used when it is determined that such depreciation methodology is a more equitable means of recovering the cost of the plant.")

¹⁰ Docket No. 46449, *Application of Southwestern Electric Power Company for Authority to Change Rates*, Order on Rehearing at 18-20 (Mar. 19, 2018) (46449 Order on Rehearing).

¹¹ PFD at 49-57.

¹² For example, SWEPCO making a proposal that doesn't comply with GAAP (Tr. at 472:21-473:5 "Q: Would you agree with me that the Commission could order a different treatment [for Dolet Hills] than called for by the GAAP standard that you cite here? A: It's happened in the past. Q: And it could happen in this case. Right? A: Yeah. It could happen, yeah. Q: And, in fact, SWEPCO's proposal doesn't comply with this GAAP standard either. Right? A: In the sense of the 4-year proposal, that's correct."); SWEPCO Exceptions to the PFD at 10-19 (Oct. 7, 2021).

¹³ Tr. at 322:13 – 323:7 ("Q: And why should the plain language of the PUC or FERC rules on depreciation not dictate the ratemaking treatment of Dolet Hills? A: It should not because the practice application of those accounting rules in the rate study does – does give way for the rate setting to ensure that those costs are just and reasonable and are in the public interest. And so there are situations where plants are retired early or before its fully depreciated, and the FERC accounting rules and also the State Commission precedent has allowed for a different treatment rather than accelerating the depreciation in rates [which] results in rate shock to [] the customers. And so most regulatory – most, if not all, regulators would not allow for accelerated depreciation in one year or less due to an early retirement because of the rate effect and will, therefore, have a regulatory construction that will allow that cost to be determined how it will be recovered in future rates over a reasonable period of time."); *see also* 18 C.F.R. Part 101, Account 182.2, Unrecovered Plant and Regulatory Study Costs (2020).

the utility at the expense of its customers; and (4) SWEPCO has several alternative rate recovery mechanisms available to recover increases to invested capital outside of a base rate case.¹⁴

This issue is critically important to setting just and reasonable rates not only in this matter, but also for future rate cases.¹⁵ The PFD, Commission Staff, and most intervenors recommend against SWEPCO's proposed ratemaking treatment of Dolet Hills. Instead of allowing SWEPCO to accelerate its recovery of the approximately \$45.4 million undepreciated balance of Dolet Hills over four years, the Commission should amortize this undepreciated balance over an extended period of time, through 2046. Consistent with Docket No. 46449, this represents a fair balancing of interests.

C. Accumulated Deferred Federal Income Taxes [PO Issues 20]

2. Excess ADFIT

Because the PFD rejected SWEPCO's proposal to accelerate Dolet Hills' amortization over a four-year period, the PFD necessarily also rejected SWEPCO's proposal to offset such accelerated amortization with the excess ADFIT funds.¹⁶ It remains undisputed that these excess ADFIT funds must be returned to customers regardless of the rate treatment approved for Dolet Hills. Although SWEPCO continues to combine these unrelated rate issues for the purported purpose of rate "mitigation," such combination masks the true rate effect of SWEPCO's Dolet Hills proposal and obscures the Commission's view of SWEPCO's rates.¹⁷ ETEC and NTEC support the PFD's treatment of excess ADFIT, which appropriately separates the issue of returning excess ADFIT to ratepayers from the issue of amortizing the unrecovered balance of Dolet Hills.

¹⁴ PFD at 51-53.

¹⁵ Based on the expected early retirements of Pirkey and likely parts or all of Welsh Units 1 and 2, the proper ratemaking treatment for early-retired plants is likely to appear again in the near future. *See* Tr. at 75-78.

¹⁶ PFD at 93; *see also* PFD at 56 ("It follows from this analysis that the ALJs also would reject SWEPCO's proposed offset utilizing refundable excess ADFIT, as this mechanism would achieve the contrary result of an immediate recovery of most of Dolet Hills' net book value.")

¹⁷ SWEPCO Exceptions to the PFD at 16-18.

VII. EXPENSES [PO ISSUES 1, 14, 24, 29, 30, 32, 33, 40, 41, 42, 44, 45, 46, 49, 72, 73, 74]

B. Generation O&M Expense

1. Dolet Hills

ETEC and NTEC support the PFD's recommendation that SWEPCO cease to recover Dolet Hills' O&M expenses after the plant is retired.¹⁸ These O&M expenses will not be reasonable and necessary to providing service because the plant will no longer be operating and SWEPCO will no longer be incurring such expenses after the plant's retirement.¹⁹ SWEPCO did not appear to file an exception to this finding.

D. Depreciation and Amortization Expense [PO Issue 29] ²⁰

As discussed above, the PFD concludes that the remaining net book value of Dolet Hills should be removed from base rates and recovered through the Dolet Hills Rate Rider based on a 2046 useful life.²¹ ETEC and NTEC support this recommendation.

XIV. CONCLUSION

ETEC and NTEC respectfully request the Commission adopt the findings and conclusions contained in the PFD related to Dolet Hills as discussed above.

¹⁸ PFD at 200.

¹⁹ 16 TAC § 25.231(b) ("Only those expenses which are reasonable and necessary to provide service to the public shall be included in allowable expenses. . . .").

²⁰ Except relating to Dolet Hills, ETEC/NTEC take no position on depreciation and amortization expenses.

²¹ PFD at 223.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 28, 2021, in accordance with 16 TAC § 22.74 or as otherwise ordered by the Commission or Administrative Law Judges.

/s/ Jacob Lawler

Jacob J. Lawler